

WESTERN WATER COMPANY
Corporate Office

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Michael Patrick George
President and Chief Executive Officer

July 1, 1998

Via Facsimile and U.S. Mail

Mr. Lester Snow
Executive Director
CALFED Bay-Delta Program
1416 Ninth Street, Suite 1155
Sacramento, CA 95814

Dear Mr. Snow:

This letter provides the comments of Western Water Company on the Draft Programmatic EIR/EIS issued by the CALFED Bay-Delta Program. Western Water Company is a public company based in California. We own a variety of water rights throughout the State, and we seek to use those water resources to meet the needs of urban and industrial users by entering into wholesale contracts for the delivery of water. As a result, we are acutely sensitive to aspects of the Draft EIR/EIS that would foster or impede water transfers. We are supportive of the CALFED effort and look forward to continuing to work with CALFED and other stakeholders on addressing the issues relating to the Bay-Delta.

While we are supportive of the CALFED process, we recognize that the draft EIR/EIS is deficient in its treatment of water transfers and, more importantly, fails to adequately account for a developing water market. Fundamentally, the Water Transfer Component falls short of what is needed to understand, analyze, and prepare to realize the contributions that water transfers can make to an environmentally sound solution to California's water development, conveyance, storage and delivery problems. We strongly concur with CALFED's finding that practical, voluntary water transfers are an essential component of the solution to California's water problems, including those evident in the Bay-Delta. Proper consideration of water transfers will certainly affect the decision as to the preferred alternative, and should result in a more efficient and cost effective solution to Bay-Delta issues than if, as in the Draft EIR/EIS, water transfers are inadequately addressed.

General policy statements in the Draft EIR/EIS promote water transfers, but the detailed information in the document either does not adequately consider the impacts of such transfers, or focuses primarily on the negative aspects of transfers, as opposed to presenting a balanced picture of the advantages and disadvantages of transfers. An indication of this is the fact that in determining economic impacts, assumptions were made that *no transfers will occur* (for example, sections 8.1.4.3 and 8.2.3.1). It is difficult to reconcile these assumptions with the Water Transfer

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Component's stated goals to "promote, encourage, and facilitate water transfers." It is simply not appropriate to suggest, on one hand, that water transfers are critical to a solution and then, on the other hand, to plan a physical response that assumes away the advantages of transfers.

With respect to the Water Transfer Component, the actions comprising the Component are inadequate to reach its stated goals. Overall, the water transfers discussion in the document poses many more questions than it even attempts to answer. Without adequately investigating these issues, CALFED cannot estimate how much water could actually be transferred, and evaluation of these issues is critical to the selection of a preferred alternative. For example:

- **What constitutes transferable water?** As revealed in preliminary reactions to the Draft EIR/EIS, there are fears in many areas (like the Sacramento Valley) that too much water will be extracted to protect local economies in "donor" regions of the State. Other areas (like the southern coastal urban areas) fear that so little water will actually be available for transfer that transfers will make no meaningful contribution to future water demand. These issues must be faced and addressed before CALFED can make reasoned decisions about a preferred alternative.
- **What will the permitting process look like? How is the no injury rule to be implemented?** Western Water Company's experience is that transfers, supported in broad generalization, are actually thwarted in practice by an unpredictable, capricious, costly and time-consuming administrative processes stacked against voluntary transfers. Further, there is deep suspicion among water rights holders, including Western Water Company, that long-established water rights will be attacked when and if they are proposed for transfer. The risks, costs and time necessarily allocated to complex litigation to defend these rights acts as a significant deterrent to voluntary water transfers, even in situations where third-party impacts are appropriately avoided or mitigated. Particularly in light of the traditional attempts by the State Department of Water Resources to reduce and eliminate private water rights, CALFED must include more definition of the permitting process so that water transfers can be evaluated as part of an overall solution.
- **What types of third-party impacts must be considered, who pays, and how long do the payments, if any, last? Will local water districts have the final authority to block water transfers without objective guidelines?** Obviously, water transfers are only one element in a dynamic economic and social equation affecting land use throughout the State. For instance, elimination of federal crop price supports may more significantly affect the decision to fallow a particular piece of agricultural property than considerations of the availability or price of water for irrigation. It would be inappropriate, under such circumstances, for a specific voluntary water transfer to bear the entire economic burden for a transition in land use or its attendant disruptions. Put another way, investigation and mitigation of third-party impacts must not be contorted into a process for preventing water transfers or maintaining an otherwise unsustainable status quo. Western Water Company believes that CALFED must offer more definition on this issue to adequately evaluate program alternatives.
- **Will equitable wheeling arrangements be mandated, or will transfers continue to have a low priority?** Without economic access to excess conveyance capacity, water transfers will continue to be an unfulfilled promise of more rational water allocation. CALFED must explicitly address this issue by embedding wheeling assumptions in its planning. Western

Water Company realizes that, in light of recent controversies involving the Metropolitan Water District and the San Diego County Water Authority, the cost of wheeling is the subject of controversy and litigation. However, the public policy issues underlying wheeling arrangements cannot be ignored in the CALFED process. In conformance with State and federal policy and statute, Western Water Company urges CALFED to insist that currently available conveyance capacity must be efficiently managed as a pre-condition to adding new capacity. California can no longer afford the capital inefficiency associated with bureaucratic reluctance to make excess system capacity available to third-party transferors at an economically justified price.

These are basic questions that will materially impact the development and the shape of the water markets in California. They are not adequately addressed in the Draft EIR/EIS, and the Water Transfer Component does not include elements necessary to adequately evaluate the contribution that a viable water transfer market could make to Bay-Delta solutions. Without appropriate investigation of these critical questions, the scope and scale of the transfers market cannot be analyzed. Without understanding the role of an effective transfer market in addressing the problems of the Bay-Delta, and putting in place objectively measurable plans leading to a viable water market, it is difficult to support expensive new facilities, regardless of who pays for them.

That is not to ignore the issue who will bear the cost of the CALFED program. Indeed, Western Water Company subscribes to the premise that those who benefit from new facilities should pay their full share of the costs of such facilities. Since the era of large-scale public subsidies is clearly over, all users should incorporate the real economic costs of their water resource use into their decision making. The CALFED implementation strategy relating to finance is not clear on this point. The finance plan should not rely on or encourage unrealistic expectations of further subsidies relating to new water projects. Water users can adequately evaluate resource alternatives only with a clear understanding of the full costs of water use. A viable transfer market facilitates this effort by creating appropriate market incentives for responsible water use.

To summarize, it is essential that the EIR/EIS give more serious consideration to water transfers. Along with the other Common Programs, water transfers can form a foundation for the long-term solution to some of the most vexing Bay-Delta problems. Therefore, adequate analysis of water transfers must be included in the decision-making process regarding a preferred alternative, as well as future analysis of impacts that would result from implementation of the CALFED program. The discussion of transfers to date has not faced these important questions, and suggested solutions are inadequate to implement the goals of the program. We look forward to working with you to resolve these concerns as the CALFED process moves forward.

Sincerely,

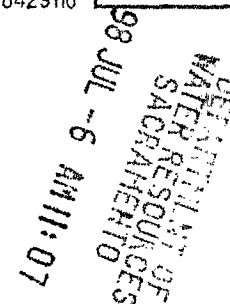


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